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## MR. HUGHES RIGHT; MR. UNDERWOOD WRONG

**D**ISCUSSION in the Senate Judiciary Committee of Senator Underwood's bill to create an all-American commission to pass on claims of the American Government and American citizens against Germany and Austria-Hungary probably will be a moot affair; for Secretary Hughes has announced, since the introduction of Senator Underwood's bill, consummation of the negotiations with Germany for a mixed commission. The agreement provides one commissioner to represent the United States and one to represent Germany, and an umpire. Germany agreed to the appointment of the umpire by President Harding, and the President promptly chose Associate Justice William R. Day, of the United States Supreme Court, who served as Assistant Secretary of State and later as Secretary of State in the McKinley Cabinet.

But, although the discussion of the Underwood bill will be academic, there should be clear understanding of what the bill seeks to do and emphatic condemnation of it. Mr. Underwood would have the United States set up its own agency to pass on the claims of its own government and its own citizens, and would have the American claims, thus passed upon by a solely American agency, satisfied from the funds or property in the control of the Alien Property Custodian. Of course, Germany and Austria-Hungary would be placed in the position of the vanquished, entitled to be heard only if and when the victor were pleased to grant a hearing. Nothing more obnoxious could be imagined to the American idea of fair play and what should be the American ideal of justice, and more than justice, to the helpless.

Parenthetically, it is difficult to imagine so strange a proposal from Senator Underwood, regarded by so great a number of those who know him as approaching the apotheosis of fairness based on sanity. Whatever the accuracy of Senator Underwood's argument that unless something be done speedily to secure the claims of Americans the funds held by the Alien Custodian will be dissipated, his plan is utterly unsatisfactory.

Secretary Hughes, in his letter to Senator Nelson, chairman of the Judiciary Committee, to which the Underwood bill was referred, properly and truthfully spoke of the measure as one of confiscation. There is no escape from that conclusion. Not only does Senator Underwood seek to set up a one-sided agency to pass upon claims, but he specifies in the bill so great a schedule of allowable claims that it is certain every dollar of alien property held would be seized without nearly meeting the total in claims. In addition to the claims of American citizens for losses sustained by such German acts as the sinking of the *Lusitania*, the Government of

the United States would be permitted to recover enormous sums, paid or to be paid, on account of the conduct of the war.

And Secretary Hughes is entirely right when, after indicating his opposition to such a policy of confiscation, he makes the point that all the facts in the situation are such that the United States is under stronger moral compulsion than ever before to adhere to its policy of mixed commissions.

It is evident that, apart from the influence of the fact that the State Department has completed negotiations with Germany for a mixed commission, the sentiments of Mr. Hughes are the sentiments of conspicuous members of the Senate, like Senator Borah, of Idaho, and Senator Walsh, of Montana. And that is a cause for genuine gratification. We believe that Mr. Borah and Mr. Walsh, in their opposition to the Underwood bill, voiced the sentiments of the American people, rather than did Senator Underwood.

## IS THE UNITED STATES TO BLAME?

**I**T is charged in certain European quarters that the United States is favoring powerful private interests engaged in the manufacture of arms; that these interests are fostering a spirit of war in different parts of the world; and that the United States authorities are at least partially controlled by these interests. The argument is substantially as follows:

A convention was concluded at St. Germain on September 10, 1919, relative to the control of the trade in arms and munitions. In this convention it is set forth that following the war huge stocks of arms remained in various belligerent countries, constituting a danger to peace and public order. In the document it is set forth that it is, therefore, necessary for the governments to exercise supervision over the trade in and the possession of these munitions of war. According to the terms of the instrument, it is proposed to prohibit the export of the arms of war without a license from the government of the exporting country. In case munitions are exported according to license, all such licenses shall be published in an annual report setting forth the quantities exported, together with their destination; which report shall be sent to a central office under the control of the League of Nations. In the case of certain "prohibited areas" in Africa and in parts of Asia, commonly termed the Near and Middle East, there shall be no importation of arms. The principle involved is that traffic in arms, like the traffic in opium and other dangerous drugs, should be subject to strict supervision and to the control of public opinion.

It appears that the Treaty of St. Germain is not in force; that, indeed, only Greece and Siam, among the

score of signatories, have ratified it. Sir Cecil Hurst explains in a report to the Armaments Commission of the League of Nations the reason why the treaty remains a dead letter. The substance of his explanation is that the American Government is not in position to control the export of arms and munitions by private firms except to a limited number of countries, such as Mexico, Turkey, and Soviet Russia. Since the United States has not ratified the Treaty of St. Germain, other signatory powers do not feel justified in inflicting severe losses upon their manufacturing industries when the effect of such action would not terminate the trade in arms, but would simply divert it into other hands. In short, it is charged that the United States is to blame for the failure to ratify the Treaty of St. Germain and to remedy the distressing situation as to the manufacture and trade in the munitions of war.

Our own opinion is that this charge is unjust. The United States has refused to accept the League of Nations. It is not in position, therefore, to ratify the Treaty of St. Germain or any other instrument tied to the League of Nations. The trouble in the whole situation is that our European friends treated with a self-appointed group of unrepresentative Americans. They have not yet sensed the fact, namely, the United States cannot, and, in no appreciable time will, conduct its foreign policy, directly or indirectly, in conjunction with the organization set up under part 1 of the Treaty of Versailles. The United States does not abstain from ratifying the convention for the control of the trade in arms and ammunition because of its subservience to the manufacturers of arms. It refuses that convention because under chapter 5, article 23, it is provided that the high contracting parties would agree to use their best endeavors to secure the accession to the present convention of other States, members of the League of Nations. Under article 24 the signatories would agree to submit disputes to an arbitral tribunal in conformity with the provision of the Covenant of the League of Nations. Thus the blame for the present deplorable situation relative to the traffic in arms is due, not to the refusal of the United States to ratify the convention of September 10, 1919, but to the inability of European statesmen to realize that, as far as the United States is concerned, such traffic will have to be controlled by some adjustment wholly unrelated to an organization repeatedly repudiated in the United States Senate and overwhelmingly condemned by the American electorate.

It is to be hoped that those taking the lead in discharging the important duty of removing this danger to peace and order will set themselves to the task of finding a way to do it that will be in conformity with the fundamental policies of the United States. There must be some workable method.

## MR. HOLT'S SERVICE

EVERY ONE is indebted to Mr. Hamilton Holt, president of the Woodrow Wilson Democracy, for his letters to Secretary Hughes criticizing the latter's attitude toward the League of Nations and the Permanent Court of International Justice, since those letters evoked from Mr. Hughes replies of customary clarity which tell us something we are glad to know.

Thus we have Mr. Hughes' statement, made in his usual convincing way, that he has not treated the League of Nations discourteously, in reply to various communications sent to this government. It is good to know that. The United States exercised its choice and stayed out of the League, but it would not be pleasant to think that our officials pettishly disregard the ordinary amenities of gentlemen in occasional dealings with agents of the League.

We also learn, in an authoritative way, why we made formal peace with Germany through the separate Treaty of Berlin instead of by using the Treaty of Versailles with reservations. When Mr. Harding went to Congress, shortly after assuming office, he gave the impression that the Treaty of Versailles would be resubmitted. It is gathered from Mr. Hughes' reply to Mr. Holt that the situation in the Senate was canvassed, and that it was found advisable to use the separate treaty.

Again we are given reliable insight into the mind of Mr. Hughes with respect to the League of Nations itself. It will be recalled that he was one of the thirty-one eminent Republicans who issued a manifesto in the 1920 campaign, Secretary Hoover and Chief Justice Taft being among the others, in which support of Mr. Harding was urged as a means of entering the League. The assumption of the manifesto was that in no event could the United States enter the League without reservations being made to the covenant, and the argument was that there would be better chance of entering the League on a sound basis, under those circumstances, with Mr. Harding in the White House than with Mr. Cox.

Alluding to Mr. Holt's not altogether friendly references to Mr. Hughes' partial responsibility for that manifesto, Mr. Hughes states in one of his replies that the Administration was compelled to deal with the situation as it found it. This plainly means that when the Administration came into office it looked at the temper of the people as revealed in the 1920 election on the one hand, and at the temper of the Republican majority in the Senate on the other hand, and concluded that any effort to enter the League would be unavailing. Perhaps reflection had convinced Mr. Harding that the country should not enter the League. But Mr. Hughes' letter indicates that the survey of the popular and senatorial situations also was made. It is well to have this under-